

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL L. MONTALVO,

Defendant.

No. 2:89-cr-00062-WBS-GGH

ORDER

Defendant has filed a motion for reconsideration of his June 5, 2015, amended motion to correct an illegal sentence pursuant to Federal Rule 35(a). ECF No. 1129. However, defendant's motion does not comply with the court's pre-filing order and accordingly, it will be stricken.

On November 6, 2015, the court issued an order denying defendant's (1) amended motion to correct an illegal sentence (ECF No. 1114); (2) motion for reconsideration (ECF No. 1117); and (3) request for judicial notice (ECF No. 1119). ECF No. 1127. The court's order also precludes defendant from filing further motions or requests challenging his conviction or sentence in this case unless he submits a declaration certifying the following:

- (a) that he has not previously raised the claim(s) set forth in the filing, and setting forth a case or cases, by a federal appellate court or the Supreme Court, or statute, which expressly permits retroactive application of an appellate/Supreme Court holding or statute directly applicable to the claims made in the new filing, or (b) if the

1 claim(s) made have previously been made to this  
2 court, Montalvo shall so certify and cite the  
appellate or Supreme Court

3 (b) case or statute which expressly permits  
4 retroactive application of an appellate/Supreme  
Court holding or statute directly applicable to the  
5 claims made in the new filing;

6 If Montalvo does not satisfy the requirements stated above,  
or certifies falsely, any judge of this court may reject the filing  
7 without further adjudication of the merits of the filing.

8 On November 24, 2015, defendant filed a motion for reconsideration of his June 5, 2015,  
9 amended motion to correct an illegal sentence (ECF No. 1114) without submitting the required  
10 declaration. ECF No. 1129. Accordingly, the court will strike defendant's motion for failure to  
11 comply with the court's November 6, 2015, order.

12 In accordance with the foregoing, THE COURT ORDERS that defendant's motion for  
13 reconsideration (ECF No. 1129) is STRICKEN.

14 Dated: December 3, 2015

15 /s/ Gregory G. Hollows

16 UNITED STATES MAGISTRATE JUDGE

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